



G. David Carter | Member
david.carter@innovistalaw.com
RICHMOND: 804.729.0052
WASHINGTON: 202.869.1502

February 27, 2018

VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

**Re: WC Docket No. 18-41
Petition for Declaratory Ruling of South Dakota Network, LLC**

Dear Ms. Dortch:

I am counsel to the Plaintiffs James Valley Cooperative Telephone Company, James Valley Communications, Inc. and Northern Valley Communications, LLC (collectively, "James Valley") in the South Dakota State Court action referenced in South Dakota Network, LLC's Petition for Expedited Declaratory Ruling.

This letter is to inform the Commission that James Valley has prepared a filing that asks the Commission to deny SDN's Petition for Declaratory Ruling, promptly issue the *amicus* brief requested by the State Court, and correct several false and misleading representations that SDN made in its Petition and in recent *ex parte* submissions to the Office of General Counsel. James Valley will provide evidence to establish the basis for each of its requests. However, much of that evidence relating to SDN's conduct has been marked as "Confidential" or "Attorneys Eyes Only" by SDN pursuant to a protective order entered by the State Court. As such, James Valley requested SDN's consent to file those materials in the public record so that the Commission's decision making and any other parties that desire to file comments can be informed by these facts, including several admissions that SDN made during the course of litigation and that weigh directly on the legality of SDN's conduct. See Letter from D. Carter to B. Donahoe (Feb. 26, 2018), attached as Exhibit A.

SDN has refused James Valley's request to provide the Commission with this evidence by objecting to a request that James Valley made to the State Court to confirm that these materials could be filed with the Commission. See Email from D. Donahoe to Judge Myren (Feb. 27, 2018), attached as Exhibit B. Most notably, SDN asks that the Court ensure that the "SDN-AT&T Agreement of September, 2014... remain confidential." This secret SDN-AT&T Agreement is, of course, the very subject of SDN's Petition. James Valley intends to show that SDN's Petition misrepresents the true nature of SDN's secret agreement with AT&T. If SDN is going to seek a Declaratory Ruling regarding the lawfulness of that contract, it should be part of the public record so that all interested parties can be informed of its content.

As soon as the State Court rules on James Valley's request to permit these materials to be filed, James Valley will submit its filing to the Commission.

In the interim, if any member of the Commission's staff requires further information, it may contact the undersigned.

Sincerely,

A handwritten signature in blue ink that reads "G. David Carter". The signature is written in a cursive style with a horizontal line underneath.

G. David Carter

cc via email: Benjamin H. Dickens, Jr., Esq. (bhd@bloostonlaw.com)
William Scher, Esq. (William.scher@fcc.gov)